

R E M A R K S

This Response is filed to clarify possible confusion on the record created by the Office Action of August 13, 2004.

The Examiner stated that Applicant's reply of "07 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE." Immediately thereafter, Applicant was advised that in order "to avoid abandonment of this application," a proper reply would be "(3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114."

After filing the Amendment on July 7, 2004, Applicant, through the Office of the undersigned, filed a Request for Continued Examination (RCE) on July 13, 2004 in compliance with 37 CFR 1.114, as is evidenced by the record including the "Auto-Reply Facsimile Transmission" from the United States Patent and Trademark Office evidencing/acknowledging the filing of the RCE application.

In view of the foregoing, the Office Action of August 13, 2004 appears superfluous/unnecessary and contrary to guidelines established for examining RCE applications, particularly as set forth in the Manual of Patent Examining Procedure, Section 706.07(h)d under the caption "AFTER FINAL REJECTION." The first sentence of the latter-captioned paragraph of the MPEP states:

If an applicant timely files an RCE with the fee set forth in 37 CFR 1.17(e) and a submission, the Office will withdraw the finality of any Office Action to which a reply is outstanding and the submission will be entered and considered.

Since Applicant complied with the latter-quoted conditions and all others, the amendment of July 7, 2004 should have been considered by way of an Office Action on the merits thereof.

In view of the foregoing, an action on the merits of the Amendment After Final Rejection of July 7, 2004 is herewith respectfully requested.

Respectfully submitted,

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